

REPORT

OF THE

COMMITTEE ON RAILROADS

OF THE

CITY OF PHILADELPHIA.

OCTOBER 5th, 1854.

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REPORT.

The Committee on Railroads, who were requested to "Inquire and report the condition of the several subscriptions of the city to the Hempfield Railroad, North Pennsylvania Railroad, Pennsylvania Railroad, and the North-western Railroad Company, what amount has been subscribed, terms of subscription, what amount has been paid, and when the balance is required to be paid,"

REPORT

That they have, through Mr. Olmsted, Assistant Solicitor, had prepared the following statement, containing the history of the municipal subscriptions of the late city and districts to the various railroad companies, with the terms and present condition of said subscriptions.

P. A. KEYSER,
JOS. M. THOMAS,
WM. S. SMITH,
HENRY C. PRATT,
A. F. HOPPEL,
CHAS. M. WAGNER,
SAMUEL J. RANDALL,
WM. MORAN,
A. D. CALDWELL.

Philadelphia, Oct. 5, 1854.

HEMPFIELD RAILROAD COMPANY.

1. An Act of Assembly, passed April 9, 1853, authorized the City of Philadelphia to subscribe for 10,000 shares in the capital stock of the Hempfield Railroad Company, to borrow money to pay therefor, to make provision for the payment of the interest and principal, as in other cases of city loan; or to pay therefor in stock owned by the city, in such mode as the company and the city might agree upon; the Act also provided that the city may be represented at elections and other meetings of the company, by agents duly authorized to act, by resolution of the councils thereof.

2. An ordinance of councils, passed April 14, 1853, authorized and required the Mayor of the city, on behalf and in the name of The Mayor, Aldermen and Citizens of Philadelphia, to subscribe forthwith for 10,000 shares in the capital stock of the Hempfield Railroad Company; and authorized the Mayor to borrow, when requested by the Committee on Finance, sufficient to pay the instalments on the said stock as the same should become due and payable, according to the provisions of the company's charter.

3. Upon the 10th of May, 1853, the Mayor, in the name of The Mayor, &c., of Philadelphia, subscribed for the 10,000 shares, as authorized and directed by the above-mentioned ordinance.

4. All of the instalments on the stock subscribed for, have been paid.

The 1st of \$50,000 on the 10th of May, 1853.			
2d,	50,000	22d	Oct., 1853.
3d,	50,000	30th	Nov., 1853.
4th	50,000	29th	Dec., 1853.
5th	50,000	21st	Jan., 1854.
6th	50,000	7th	March, 1854.
7th	50,000	4th	April, 1854.
8th, 9th, 10th	150,000	8th	May, 1854.

5. The Commissioners of the District of Spring Garden, by an ordinance passed June 20, 1853, authorized the President and Treasurer of the district, to subscribe for 2,000 shares in the capital stock of the Hempfield Railroad, provided the necessary authority for the subscription be first obtained, and the company accept the bonds of the district in payment.

The ordinance authorized the issue of 6 per cent. bonds, with interest coupons, which were receivable from the company in payment of interest or dividends on the stock held by the district.

6. An Act of the General Assembly, passed May 4, 1854, gave "full power and authority to the President and Treasurer of the District of Spring Garden," "to subscribe for 2,000 shares in the capital stock of the Hempfield Railroad Company, in accordance with the provisions and directions" of the above ordinance: and enacted that all acts to be done and performed in carrying out the provisions and directions of said ordinance, should be deemed and taken to be valid and effectual in law.

7. On the 23d June, 1854, The President and Treasurer of the Commissioners and District of Spring Garden, made the subscription as they were authorized by the ordinance of June, 1853; and the whole of the instalments were paid in the bonds of the District, at the time of subscription.

8. The subscriptions of the corporations of the old City and the District of Spring Garden were made without conditions. The amount of stock held by the city, is 12,000 shares, costing 600,000 dollars.

NORTH PENNSYLVANIA RAILROAD.

1. An Act of Assembly of May 6, 1852, authorized "the constituted authorities of the City of Philadelphia, the incorporated districts in the County of Philadelphia," and other public corporations, "to subscribe for shares in the capital

stock of the Philadelphia, Easton and Water Gap Railroad Company," since changed by authority of law to the name of "the North Pennsylvania Railroad Company," to make provision for the payment of the principal and interest of the money so borrowed as in other cases of loan to the said corporations: the Act further provided that the said company should not sell or dispose of below their par value, any bonds received in payment of stock subscriptions, without giving at least 60 days' notice to the municipal corporation having issued the same, that an instalment or instalments have been called in upon the said stock; and if the corporations shall pay the said instalments so called, the bonds shall be returned to them; but upon their failure to make such payments, the company shall have power to dispose of said bonds to the best advantage.

2. The Councils of the corporation of The Mayor, Aldermen and Citizens of Philadelphia, by an ordinance passed March 10, 1853, provided "That when the amount of 15,000 shares shall have been subscribed to the capital stock of the Philadelphia, Easton and Water Gap Railroad Company, in conformity with the provisions of the charter of the said company, and the connections of the said road with the City of Philadelphia, are approved by Councils, the Mayor of the city is hereby authorized to subscribe in the name of The Mayor, Aldermen and Citizens of Philadelphia, for 10,000 shares in the capital stock of the said company, payable under such regulations and at such times as may be agreed upon between the Committee on Finance and said railroad company."

3. On the 9th May, 1853, the said company, by their President, informed Councils that 15,000 shares had been subscribed to their capital stock; and that the company had fixed the location of their road between Hellerton and the mouth of Sandy Run, on the Wissahickon, about 14 miles from

the city, to be continued thence with the approval of Councils, to form a connection with the City of Philadelphia, and thereby establish a direct communication by railroad, between the City of Philadelphia and the counties of North Pennsylvania.

4. This communication was referred by Councils to the Committee on Finance to report. Several communications from the company were made to Councils or the committee, on the subject of the connection of the road with the city, and finally the committee reported to Councils substantially as follows :

5. *First*—That Councils had been informed that 15,000 shares in the capital stock of the North Pennsylvania Railroad had been subscribed for.

Second—That the company reported “that the road will be so laid as to intersect the Willow street Railroad at Front and Willow streets, and will thence by way of Broad street, connect with the railroads in the city, passing across the latter north and south, in Broad street, and east and west along Market street.” And that the company in their communication set forth that they will be able, at the fitting time, “to extend a branch road from their depot at Front and Willow streets, by the most eligible route southward into the city.”

The committee reported that they were of opinion that the connection at Willow and Front streets with the Willow street Railroad, was sufficient, for the present, to secure to the city the advantages of the business on the road, and were satisfied that, when the necessities of trade and travel demanded a direct extension of the railroad into the heart of the city, the interests of the company would produce a compliance therewith.

The committee concluded their report by presenting the following resolution and ordinance, both of which were adopted by Councils :

6. *Resolved*, That the connections of the North Pennsylvania Railroad Company, as set forth in a letter from the President of said company, dated September 27, 1853, and this day reported upon by the Committee on Finance, are approved.

7. Ordinance authorizing the Mayor to borrow, when requested by the Committee on Finance, such sums as may be necessary to pay the instalments to grow due on 10,000 shares in the stock of the company; or if the company consent, certificates of city debt may be delivered to them, and if they require it, with interest coupons: the committee authorized to anticipate the payment of instalments.

8. The subscription was made by the Mayor as directed, and the instalments were paid as follows:

December 15, 1853, 3 instalments,	\$150,000
March 15, 1854, 2 “	100,000
May, 30, 1854, 5 “	250,000
	<hr/>
	\$500,000

9. The Commissioner of the District of Spring Garden, by an ordinance passed 2d May, 1853, authorized the President and Treasurer of the district to subscribe for 3,000 shares in the capital stock of the North Pennsylvania Railroad Company, payable in the bonds of the district. The bonds to have interest coupons attached, which the district stipulated in the ordinance to receive in payment of interest, or on account of dividends due to the district on their stock in the company.

10. The subscription was made as directed, and the instalments were paid in bonds as follows:

September 17, 1853,	-	-	\$50,000
“ 30, 1853,	-	-	100,000
			<hr/>
			\$150,000

11. The Commissioners of the District of Richmond, by an ordinance of 25th January, 1854, authorized their President to subscribe, in the name of the Commissioners and Inhabitants of the District of Richmond, for 5,000 shares in the capital stock of the North Pennsylvania Railroad Company, in the bonds of the district: provided the stock so subscribed for shall bear interest from the date of subscription.

12. The subscription was made as directed, and the bonds of the district for 250,000 dollars were issued February 2, 1854.

13. The Commissioners of the District of the Northern Liberties, by an ordinance of January 30, 1854, authorized the President of the board, in the name of the corporation, to subscribe for 10,000 shares in the North Pennsylvania Railroad Company, and to issue bonds of the district to the amount of \$500,000 to pay therefor. The ordinance provided the bonds should not be issued until the Railroad Company should give satisfactory assurance that the southern terminus of the road would be on the eastern front of the district.

14. Such satisfactory assurance was considered to be given, by the company having purchased property in that locality, for the purposes of a depot, and having officially decided, in the fall of 1853, that the southern terminus of their main road should be at Front and Willow streets.

15. The subscription was accordingly made on the 4th of February, 1854, and the bonds of the district issued for the full amount of the instalments.

The number of shares owned by the City of Philadelphia in the North Pennsylvania Railroad is 28,000, costing \$1,400,000; of which

The old City of Philadelphia subscribed for	10,000
District of Spring Garden, subscribed for	3,000
“ Richmond, “	5,000
“ Northern Liberties, “	10,000

PENNSYLVANIA RAILROAD.

1. The Select and Common Councils of the Corporation of the Mayor, &c., of Philadelphia, by an ordinance of November 12th, 1846, authorized the Mayor of the City to subscribe, in the name and for the corporation, for 30,000 shares in the capital stock in the Pennsylvania Railroad Company, when a like number should have been subscribed by others ; for an additional 10,000 when a like number should have been subscribed for by others, and one hundred miles of the road should be finished and in use ; and for a further 10,000 shares when a like further amount of shares should have been subscribed by others, and 125 miles of the road should be finished and in use.

The ordinance provided for the borrowing of money to pay the instalments on the stock as the same should become due, as provided by the act incorporating the Company.

This ordinance was passed and the subscription made without any special authority having been given to the Corporation by the Legislature for that purpose, but by an Act of Assembly, passed March 27, 1848, it was declared, That under the provisions of the first section of the Act to incorporate the Pennsylvania Railroad Company, it should be competent to the municipal corporations in the county of Philadelphia, and the said act should be construed to have authorized the city of Philadelphia to subscribe for shares in the capital stock of that Company.

2. By an ordinance of Jan. 10, 1850, the Mayor was directed to make the first subscription of 10,000 shares, without the conditions in the ordinance of 1846 being complied with.

3. And an ordinance passed Jan. 17, 1850, authorized the issue of city bonds in payment of the instalments to grow due on the last subscription.

4. An ordinance of Sept. 12, 1850, authorized the issue of bonds to an amount sufficient to pay the final subscription for 10,000 shares in the capital stock of the Railroad Company.

5. An ordinance of 20th February, 1851, authorized the Mayor of the city, in the name of the corporation, to subscribe for 30,000 shares in the capital stock of the Pennsylvania Railroad Company, whenever the like amount should have been subscribed by others; and provided for the borrowing of money to pay the instalments as the same became due.

6. By an ordinance of July 3, 1851, the Mayor was authorized to subscribe for 10,000 shares in the capital stock of said company, without regard to the condition contained in the ordinance of February 20, 1850; and the Treasurer was authorized to issue certificates of loan to pay the instalments to become due.

7. And by ordinance of Nov. 25, 1851, the Mayor was authorized to subscribe for 5,000 shares without regard to the conditions contained in the ordinance of February, 1850, and the Treasurer was directed to issue certificates of loan to pay the instalments to grow due.

8. And by a further ordinance of February 9, 1852, the Mayor was authorized to subscribe for 15,000 shares, without regard to the condition, and the Treasurer to issue certificates to pay the instalments.

7. The various subscriptions, so authorized, were made by the Mayor, and the instalments paid as they became due, or were anticipated, until the whole sum of \$4,000,000 was paid to the Company in cash, or in the certificates of city loan; these payments, in cash or in certificates, were made at the following periods, viz:

1847,	February	22,	-	-	\$150,000
	March	19,	-	-	150,000
	July	24,	-	-	200,000
1848,	August	17,	-	-	100,000
1849,	February	1,	-	-	150,000
		22,	-	-	150,000
	May	1,	-	-	100,000
		26,	-	-	250,000
	July	2,	-	-	250,000
1850,	January	23,	-	-	250,000
	April	12,	-	-	250,000
	October	8,	-	-	500,000
1851,	August	14,	-	-	250,000
	September	8,	-	-	250,000
	November	29,	-	-	250,000
1852,	March,	6,	-	-	250,000
	May	25,	-	-	250,000
	July	28,	-	-	250,000
					<hr/> \$4,000,000 <hr/>

10. By an ordinance of the Commissioners of the District of Spring Garden, passed June 13, 1850, the President and Secretary were authorized to subscribe for 2,000 shares in the capital stock of the Pennsylvania Railroad Company, to be paid for in the bonds of the District; the bonds to have attached interest coupons, payable at the office of the Railroad Company, which are to be receivable by the District in payment of interest, or on account of dividends.

The ordinance further provided that the stock so held by the District, should be specifically pledged for the *payment of the bonds, and that no transfer of the stock should be made unless for their liquidation.*

11. By a further ordinance of the same Commissioners, passed April 7, 1851, another subscription for 8,000 shares was au-

thorized: and the same provision for interest coupons and the non-transfer of the stock, except for liquidation of the loan that was contained in the above ordinance, was inserted in the Ordinance, and this additional provision: that before the subscription should be made, the Railroad Company should enter into a covenant with the District, "that any resolution, regulation or practice of said company, to deliver flour, grain or other produce transported by said company, to the consignees thereof, at any other place or depot within the City of Philadelphia than the said company's depot in said city, shall apply to and embrace the delivery of flour or grain, or other produce, on the same terms, and for the same charges, to consignees thereof, at their place of business, located in this district."

12. On the 27th of June, 1851, the Railroad Company executed a covenant, wherein they provide, that they will at "all times hereafter, during the continuance of our charter, deliver to consignees of flour, grain and other produce transported over the said Pennsylvania Railroad, residing or having their place of business within that part of the County of Philadelphia comprising the incorporated District of Spring Garden, the said flour, grain and other produce, upon the same terms and for the same charges, that we should or may deliver the like merchandise to consignees thereof, at any places or depots within the City of Philadelphia other than the depots of the said Railroad Company, and that any resolution, regulation or practice of the said Railroad Company, to deliver flour, grain and other produce transported by the said company to the consignees thereof, at any other place or depot within the City of Philadelphia than the said company's depots in the said city, shall apply to and embrace the delivery of flour, grain and other produce, on the same terms and for the same charge to the consignees thereof, at their places of business, located within the Incor-

rated District of Spring Garden, and that in the event of any breach of this agreement on the part of the Railroad Company aforesaid, it shall and may be lawful for each and every person thereby aggrieved, to bring suit against the said Railroad Company upon this agreement, in as full and ample a manner as though this agreement had been made between the said Railroad Company, and such person or persons individually."

13. The said subscriptions were made as directed and authorized, and the instalments were made at the following dates:

On the subscription of 2,000, the bonds of the District, were issued for the whole amount, namely, 100,000 dollars on the 15th of November, 1850:

And, on that of 8,000 shares, on the 19th July, 1851,	\$120,000
29th " "	40,000
9th August "	80,000
22d " "	80,000
5th Sept. "	80,000
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	\$500,000

14. The Commissioners of the District of the Northern Liberties, by an ordinance of March 24, 1854, authorized their President, in the name and for the Corporation of the District of the Northern Liberties, to subscribe for 5,000 shares in the capital stock of the Pennsylvania Railroad, and for an additional 5,000 shares when the same with other subscriptions, would make up the number of 60,000 shares subscribed on or after February 20, 1851.

For the payment of the instalments, bonds, with interest coupons, were to be issued, the latter to be received by the District in payment of interest or dividends on the stock; the ordinance further provided, that the stock was not to be sold, except in payment of the bonds.

And it was further provided, that the subscription should not be made until the Railroad Company made an agreement of the same character as that made with the District of Spring Garden, respecting freight.

15. I have been informed by the officers of the Railroad Company, that the agreement stipulated for in the ordinance, was made by the company: but it has not been delivered to the City Treasurer, by the authorities of the late District of the Northern Liberties.

The subscriptions were however made, and the bonds of the District issued in payment therefor, for one 5,000 shares, on the 21st of November, 1851, and another on the 14th of May, 1852.

16. The stock owned by the City of Philadelphia in the Pennsylvania Railroad Company, is 100,000, costing 5,000,000 of dollars; of which, 80,000 was subscribed for by the corporation of The Mayor, Aldermen and Citizens of Philadelphia; 10,000 by the late District of Spring Garden, and 10,000 by the late District of the Northern Liberties.

NORTH-WESTERN RAILROAD COMPANY.

1. By an Act of Assembly, approved 18th April, 1853, the City of Philadelphia was authorized to subscribe to the capital stock of the North-western Railroad Company, for any number of shares, not exceeding 15,000; to borrow money to pay therefor; to make provision for payment of the principal and interest of the money so borrowed, as in other cases of city loan, or to make payment for the shares in stock held by the city, and in such mode as the city and the company might agree upon.

2. By an Ordinance of the Select and Common Councils of The Mayor, &c., of Philadelphia, approved 16th February,

1854, the mayor of the city was authorized to subscribe, in the name of the corporation of The Mayor, &c., for 15,000 shares in the capital stock of the North-western Railroad Company, whenever 20,000 shares should have been subscribed by responsible parties, including therein subscriptions already made. The mayor was authorized to borrow money to pay therefor, and with the consent of the directors of the company, to receive the same; certificates of city loan were to be issued in payment of the instalments.

The ordinance contained a provision that the subscription should not be made until the Pennsylvania Railroad Company, the North-western Railroad Company and the Cleveland and Mahoning Railroad Company entered into an agreement, the terms and stipulations of which are set forth in the next paragraph.

3. The following agreement was executed in compliance with the proviso in the above ordinance, and was reported to the Councils of the Mayor, &c., by the Railroad Committee, as having been so executed. The original is in the possession of the officers of the Pennsylvania Railroad Company:

ARTICLES OF AGREEMENT, made and concluded this 22d day of March, A. D. 1854, by and between the Cleveland and Mahoning Railroad Company and the North-western Railroad Company of the one part, and the Pennsylvania Railroad Company, acting in this behalf for and in the place and stead of the Mayor, Aldermen and Citizens of Philadelphia, of the other part. *Whereas*, the Select and Common Councils, the Mayor, Aldermen and Citizens of Philadelphia, did by an Ordinance, duly enacted on the 16th day of February, 1854, authorize the mayor of the said city, in the name of the Mayor, Aldermen and Citizens of Philadelphia, to subscribe for fifteen thousand shares of the capital stock of the said North-western Railroad Company, whenever twenty

thousand shares of said capital stock should have been subscribed for by responsible parties, including therein the subscriptions already made. *Provided*, that before such subscription was made, an agreement under the seals of the Pennsylvania Railroad Company, the North-western Railroad Company, and the Cleveland and Mahoning Railroad Company, should be executed, containing the following stipulations, viz :

First.—That the Cleveland and Mahoning and the North-western Railroad Companies should always keep their roads in good repair, or in default thereof, that the Pennsylvania Railroad Company should have full authority to do so, at the cost of the company so neglecting to keep their road in order.

Second.—That the Cleveland and Mahoning and the North-western Railroad Companies should always carry, or allow to be carried, through freight and passengers at as low a rate per mile as may be at the same time charged by the Pennsylvania Railroad Company. And

Third.—That the Cleveland and Mahoning Railroad should be entirely completed at the same time as the North-western Railroad; that the gauge of neither road should ever be different from that of the Pennsylvania Railroad, without their consent; and that every facility afforded by the Pennsylvania Railroad Company on their road, should always be afforded passengers and freight passing to or from Cleveland, and from or to Philadelphia, or any other point in Pennsylvania.

And whereas, the said Companies are desirous that the aforesaid subscription should be made, it being considered by them to be highly beneficial to all of them: To that end, therefore, the said North-western Railroad and the Cleveland and Mahoning Railroad, in consideration of the intended subscription, and of the advantages to be derived by them there-

from, do each hereby, for themselves and their successors and assigns, covenant, promise and agree, each for itself, and not one for the other, to and with the said Pennsylvania Railroad Company, as follows :

First.—The Cleveland and Mahoning Railroad Company covenant and agree that their railroad shall be entirely completed at the time that the North-western Railroad Company complete their said road.

Second.—The Cleveland and Mahoning Railroad Company and the North-western Railroad Company shall build and continue their respective railroads at the present gauge of the road of the Pennsylvania Railroad Company, unless the last named company consent to an alteration.

Third.—The said Cleveland and Mahoning Railroad Company and the North-western Railroad Company shall always carry, or allow to be carried, over their respective railroads, through freight and passengers at as low a rate per mile as at the time being is charged by the Pennsylvania Railroad Company; and that they will respectively afford the same facilities for the conveyance of freight and passengers passing over their roads to or from Cleveland, and from or to Philadelphia or any other point in Pennsylvania, as are for the time being afforded by the Pennsylvania Railroad Company over their road.

Provided, the herein covenant of the Cleveland and Mahoning Railroad Company shall be subject to the provision of the Acts of Assembly of the Commonwealth of Ohio, regulating the rate of toll to be charged by the said company.

Fourth.—The said Cleveland and Mahoning Railroad Company and the North-western Railroad Company will keep their respective railroads at all times in good order and repair; and in default thereof, after reasonable notice by the Pennsylvania

Railroad Company at their offices, the said Pennsylvania Railroad Company shall place the same in such order and repair; and the cost thereof shall be repaid them by the said Cleveland and Mahoning Railroad Company, or the North-western Railroad Company, as the case may be.

In witness whereof, the corporate seals of the said parties have been thereto affixed by authority of the respective Boards of Directors of the said companies, the day and year above said.

4. The said Railroad Committee reported to Councils on the 27th April, 1854, that the North-western Railroad Company had furnished them with evidence, that upwards of one million of dollars had been subscribed to the capital stock of the company, and that the provisions of the ordinance of 16th February, 1854, had been complied with by the company; and reported a resolution that the Mayor be directed to subscribe, in the name of the corporation, for 15,000 shares in the capital stock of the North-western Railroad Company, which was passed by Councils.

5. On the 6th of May following, the Mayor subscribed as directed; and at the same time city bonds to the amount of \$75,000 were delivered to the treasurer of the company, in payment of the instalment of \$5 per share required by the charter of the company to be paid at the time of subscription.

6. The first instalment is the only one which has been paid upon the city's subscription to the North-western Railroad.

A bill in equity has been filed in the Supreme Court, praying for an injunction to restrain the city from completing its subscription, and to declare that all past proceedings thereabout were illegal, and without authority of law. The Court has fixed the 2d of October for a hearing in the case.

